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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,265	03/04/2002	Charles S. Zappala	CING0685/553.US	6538
54499 7590 06/19/2007 WOODCOCK WASHBURN LLP CIRA CENTRE 12th Floor 2929 ARCH STREET PHILADELPHIA, PA 19104-2891			EXAMINER PHAN, HUY Q	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 06/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/090,265	Applicant(s) ZAPPALA, CHARLES S.	
	Examiner Huy Q. Phan	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6, 8-11 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6, 8-11 and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/17/2007 has been entered.

Response to Amendment

2. This Office Action is in response to Amendment filed on date: 05/17/2007.

Claims 6, 8-11 and 23-25 are still pending.

Claim 7 is canceled.

Claims 1-5 and 12-22 are withdrawn.

Response to Arguments

3. Applicant's arguments with respect to the amended limitations have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Tayloe (US-5,095,500).

Regarding claim 23, Tayloe discloses a wireless communications system (fig. 1 and its description), comprising:

a subscriber handheld mobile telephone unit (fig. 1, 100 and col. 3, lines 25-32), wherein the handheld mobile telephone unit includes:

a performance monitoring means that records multiple network performance characteristics (col. 3, line 66-col. 4, line 21); and

a global positioning system location means (col. 3, lines 40-46) that creates location data describing a location of the handheld mobile unit with a resolution required by enhanced 911 services (using the global positioning system; see col. 3, lines 40-46); and

a data processing means in communication with the handheld mobile unit (col. 4), comprising, means for using the network performance characteristics and the location data to create at least one performance report ("These representations, graphical or tabular, are presented to the system operator via CRT displays 118 or 122"; see cols. 4-5), including a graphical report that displays the call data as a function of location and time (col. 5), wherein the location is the location of the mobile telephone unit hand-carried by a subscriber at the time the network performance characteristics were recorded (col. 5, lines 40-65), and wherein the performance characteristics and

location data are acquired in absence of traditional drive test ("avoid the expense of drive team testing"; see col. 4).

Regarding claim 25, Tayloe discloses the wireless communications system of claim 23. Tayloe further discloses wherein the data processing means further comprises: means for creating a link between the network performance characteristics and the location data (col. 3, lines 25-65; also see fig. 1 and its description); means for storing the network performance characteristics, the location data, and the link in a server (col. 5); and means for retrieving the network performance characteristics and the location data (col. 5, lines 25-65) in response to a request to create at least one performance report ("These representations, graphical or tabular, are presented to the system operator via CRT displays 118 or 122"; see cols. 4-5).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 8-11 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tayloe in view of Garceran (US-6,522,888).

Regarding claim 6, Tayloe discloses a subscriber handheld mobile telephone unit (fig. 1, 100 and col. 3, lines 25-32) for use in a wireless communications network (fig. 1 and its description), the handheld mobile telephone unit comprising:

an operating system, including hardware and software that performs communications functions (fig. 1, 100 and col. 3, lines 25-32);

a performance measurement system to determine at least one call performance characteristics (col. 4); and

a global positioning system location system (col. 3, lines 40-46), comprising hardware and software that determine a location of the handheld mobile unit in compliance with enhanced 911 requirements (using the global positioning system; see col. 3, lines 40-46), wherein the location system is within the handheld mobile telephone unit carried by the subscriber (col. 3, lines 25-32), and wherein the handheld mobile telephone unit:

communicates with a base station (fig. 1 and its description), including call performance characteristics and location data (col. 4), wherein the location data describes the location of the subscriber handheld mobile telephone unit when the call performance characteristics was collected (fig. 1 and its description) and comprises a location of the subscriber handheld mobile telephone unit in compliance with E911 requirements (using the global positioning system; see col. 3, lines 40-46); and

transmits the location data and the call performance characteristics, wherein the location data and the call performance characteristics is used in analyzing performance

of the wireless communication network (fig. 1 and its description) in the absence of drive testing ("avoid the expense of drive team testing"; see col. 4).

But, Tayloe does not particularly show receiving a query originating from a mobile switch center which communicates with a base station and transmitting the location data and the call performance characteristics to the mobile switch center in response to the request. However in analogous art, Garceran teaches receiving a query originating from a mobile switch center which communicates with a base station and transmitting the location data and the call performance characteristics to the mobile switch center in response to the request (col. 8, lines 49-67; for more details see fig. 5 and its description). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Tayloe as taught by Garceran for the purpose of providing the system the capability of requesting the location data and call data of the specific network coverage for monitoring; since Garceran particularly suggests that "a system for determining coverage in a wireless communications systems using location information for a wireless unit and collecting information on communications between the wireless unit and the wireless communications system in association with the location information" (see col. 2).

Regarding claim 8, Tayloe and Garceran disclose the mobile unit of claim 6. Tayloe further discloses the mobile unit comprising a performance monitoring system that monitors and stores multiple network performance characteristic measurements (cols. 4-5).

Regarding claim 9, Tayloe discloses a method for analyzing a wireless communications network (fig. 1 and its description) in real-time (col. 5, lines 40-65) without drive testing ("avoid the expense of drive team testing"; see col. 4), the method comprising:

- receiving performance monitoring criteria (col. 4);

- using the performance monitoring criteria at least one subscriber handheld mobile telephone unit (fig. 1, 100 and col. 3, lines 25-32) in the wireless communication network, the handheld mobile telephone unit comprising a global positioning system location system internal to the handheld mobile telephone unit (col. 3, lines 40-46);

- receiving at least one call data and location data (col. 5), the call data and location data received in the absence of traditional drive testing ("avoid the expense of drive team testing"; see col. 4);

- creating a link between the call data and the location data (fig. 1 and its description);

- storing the call data, the location data, and the link in a server (col. 5, lines 25-39);

- accessing the server to retrieve the call data, the location data, and the links (fig. 1 and its description);

- using the call data, the location data and the links to create at least one performance report ("These representations, graphical or tabular, are presented to the system operator via CRT displays 118 or 122"; see cols. 4-5), including a graphical

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report that displays the call data as a function of location and time (col. 5), wherein the location is a location of a subscriber handheld mobile unit hand-carried by a subscriber with a resolution required by enhanced 911 ("E911") services (using the global positioning system; see col. 3, lines 40-46), and the time is a time at which the call data was created and at which the subscriber handheld mobile unit was in the location (col. 5, lines 22-24).

But, Tayloe does not particularly show using the performance monitoring criteria to query at least one subscriber handheld mobile telephone unit and receiving at least one response to the query. However in analogous art, Garceran teaches using the performance monitoring criteria to query at least one subscriber handheld mobile telephone unit and receiving at least one response to the query (col. 8, lines 49-67; for more details see fig. 5 and its description). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Tayloe as taught by Garceran for the purpose of providing the system the capability of requesting the location data and call data of the specific network coverage for monitoring; since Garceran particularly suggests that "a system for determining coverage in a wireless communications systems using location information for a wireless unit and collecting information on communications between the wireless unit and the wireless communications system in association with the location information" (see col. 2).

Regarding claim 10, Tayloe and Garceran disclose the method of claim 9. Tayloe further discloses the automatically adjusting parameters of the wireless communications network based on the at least one performance report and predetermined performance guidelines (col. 5, lines 1-5; for more details see cols. 4-6)

Regarding claim 11, Tayloe and Garceran disclose the method of claim 10. Tayloe further discloses wherein the parameters include power settings of network components, and frequency assignments (col. 4, lines 49-67; for more details see cols. 4-6).

Regarding claim 24, Tayloe discloses the wireless communications system of claim 23. Tayloe further discloses wherein the data processing means further comprises: means for receiving performance monitoring criteria (col. 4). But, Tayloe does not particularly show means for using the performance monitoring criteria to query the handheld mobile telephone unit; and means for receiving a response to the query, wherein the response includes the network performance characteristics and the location data. However, Garceran teaches means for using the performance monitoring criteria to query the handheld mobile telephone unit; and means for receiving a response to the query, wherein the response includes the network performance characteristics and the location data (col. 8, lines 49-67; for more details see fig. 5 and its description). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Tayloe as taught by Garceran for the

purpose of providing the system the capability of requesting the location data and call data of the specific network coverage for monitoring; since Garceran particularly suggests that "a system for determining coverage in a wireless communications systems using location information for a wireless unit and collecting information on communications between the wireless unit and the wireless communications system in association with the location information" (see col. 2).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Kuwahara discloses that "The mobile switching center, which tracks the location of every mobile station, sends a paging request message to another base station that is currently serving the called station" (see specification).

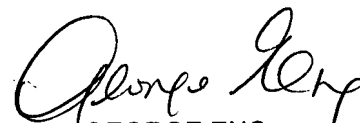
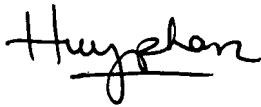
b) Nelson discloses Monitoring network performance using individual cell phone location and performance information (see specification).

c) Sheffield discloses that "Method and system for optimizing performance of a mobile communication system" (see specification).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Q Phan whose telephone number is 571-272-7924. The examiner can normally be reached on 8AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



GEORGE ENG
SUPERVISORY PATENT EXAMINER

Examiner: Phan, Huy Q.

AU: 2617

Date: 06/05/2007